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In the Supreme Court of the United States

OCTOBER TERM, 1972

No. 71-5656

DORIS PHILPOTT, ET AL., PETITIONERS

v.

ESSEX COUNTY WELFARE BOARD

***ON WRIT OF CERTIORARI TO THE
SUPREME COURT OF NEW JERSEY***

BRIEF FOR THE UNITED STATES AS AMICUS CURIAE

OPINIONS BELOW

The opinion of the Supreme Court of New Jersey is reported at 59 N.J. 75, 279 A.2d 806 (Pet. App. A). The opinion of the Appellate Division is reported at 109 N.J. Super. 48, 262 A.2d 227. The opinion of the trial court is reported at 104 N.J. Super. 280, 249 A.2d 639.

JURISDICTION

The judgment of the Supreme Court of New Jersey was entered on July 12, 1971. On October 6,

1971, Mr. Justice Brennan extended the time for filing a petition for a writ of certiorari to November 8, 1971. The petition was filed on November 1, 1971, and was granted on May 15, 1972. The jurisdiction of this Court rests on 28 U.S.C. 1257(3).

QUESTION PRESENTED

Whether Section 207 of the Social Security Act, which prohibits attachment of federal old-age, survivors, and disability insurance benefits, bars a state from attaching federal disability insurance benefits retroactively paid to a beneficiary and deposited by his trustee in a bank account containing no other funds.

STATUTE INVOLVED

Section 207 of the Social Security Act, 49 Stat. 624, as amended, 42 U.S.C. 407, provides in relevant part:

* * * [N]one of the moneys paid or payable or rights existing under this subchapter [relating to old-age, survivors, and disability insurance] shall be subject to execution, levy, attachment, garnishment, or other legal process * * *.

INTEREST OF THE UNITED STATES

Section 223 of the Social Security Act provides for payments of federal disability insurance benefits to alleviate the financial burdens of permanent and total disabilities. Section 207 of the Act protects against frustration of the purpose of these payments

by ensuring that the benefits paid will remain available to the disabled beneficiary. The United States has a substantial interest in this case, since its outcome will affect the extent to which the beneficiaries of federal disability insurance will have the full use of payments made under the Act.

STATEMENT

The State of New Jersey has established a program of financial assistance for persons who are permanently and totally disabled, based upon need. Under this program, the level of benefits is fixed by first determining the amount needed by the beneficiary reasonably to maintain himself and then subtracting from that amount the beneficiary's actual income from other sources (Pet. App. A, 5). As a condition of receiving assistance, a beneficiary is required to execute an agreement to reimburse the county welfare board, which administers the program, for all payments received thereunder (Pet. App. A, 6). The purpose of this agreement is "to enable the board to obtain reimbursement * * * out of subsequently discovered or acquired real and personal property of the recipient" (*ibid.*).

Petitioner Wilkes applied to respondent county welfare board for assistance under this program in 1966, and he executed the required agreement (Pet. 3). After determining Wilkes' monthly maintenance needs to be \$108 and finding that he had no other income, respondent fixed his monthly benefits at that amount and began making assistance payments no

later than January 1, 1967 (Pet. App. A, 5). The payments would have been less if Wilkes was receiving federal disability insurance benefits under the Social Security Act, and respondent advised Wilkes to apply to the Social Security Administration for such benefits (Pet. 3).

In August 1968, Wilkes was awarded retroactive federal disability insurance benefits under Section 223 of the Social Security Act, 42 U.S.C. 423, from May 1966 through June or July 1968 (Pet. App. A, 7). These benefits were calculated on the basis of \$69.60 per month for 20 months and \$78.70 per month for 6 months, for a total of \$1864.20 (*ibid.*). A check for that amount was issued to Wilkes (Pet. 4). Petitioner Philpott, acting as trustee for Wilkes, deposited the check in a bank account (Pet. App. A, 2). The amount of the check constituted the entire balance in the account (*ibid.*).

Respondent immediately brought suit to reach the bank account under the agreement to reimburse (*ibid.*). The trial court held that respondent was barred by Section 207 of the Social Security Act, 42 U.S.C. 407, from recovering any amount from the account (Pet. App. A, 3), and the Appellate Division affirmed (*ibid.*).

The Supreme Court of New Jersey reversed, holding that Section 207 does not bar attachment of the federal payment by respondent under the circumstances of this case. The court stated that the fund attached did not represent current benefits necessary for Wilkes' current support, that the monthly pay-

ments which had been made by respondent would have been reduced on account of the federal benefits had they been received concurrently, and therefore that "[t]he equities are all with [respondent]" (Pet. App. A, 11). The court further reasoned that the rationale of Section 204 of the Act, 42 U.S.C. 404, which permits recovery by the federal government in cases of overpayment, should be extended to permit recovery by respondent here, because the federal government contributes one-half of the funds for assistance under the state program and will be entitled to one-half of any state recovery in this suit (Pet. App. A, 9-10, 11-12). The court also stated that similar state claims had been honored under the federal veterans' benefits laws (Pet. App. A, 13-14).

Since respondent did not claim a right to the entire federal payment but only to the amount by which its own payments would have been reduced had the federal benefits been received currently rather than retroactively (Pet. App. A, 2, n. 2), and because the stipulated facts were ambiguous as to when respondent actually began making assistance payments (Pet. App. A, 3, n. 3), the court remanded the case for a determination of the period of overlap and the precise amount of respondent's claim (Pet. App. A, 14).

ARGUMENT

SECTION 207 OF THE SOCIAL SECURITY ACT BARS THE RESPONDENT FROM OBTAINING THE RETROACTIVE FEDERAL DISABILITY INSUR- ANCE BENEFITS PAID TO THE BENEFICIARY AND DEPOSITED IN A BANK ACCOUNT.

Introduction and Summary

This case presents a difficult question of statutory interpretation. On its face, Section 207 of the Social Security Act appears to bar the State of New Jersey from obtaining the federal disability insurance paid retroactively to Wilkes. The language is sweeping and unqualified: "none of the moneys paid or payable under this subchapter shall be subject to execution, levy, attachment, garnishment, or other legal process."¹ The amount paid to Wilkes as retroactive benefits was "moneys paid * * * under this subchapter," and the suit the state brought to reach this money in the bank account was an attempt to "subject [it] to * * * levy, attachment * * * or other

¹ There is only one exception to the sweeping exemption of Section 207, and that arises under another statutory provision. Section 6331(a) of the Internal Revenue Code of 1954, 26 U.S.C. 6331(a), makes subject to levy for federal tax liability "all property and rights to property" of the person liable for the tax. Section 6334 of the Code, 26 U.S.C. 6334, limits exemptions from the levy to eight specific categories and provides that no other property or rights to property shall be exempt "[n]otwithstanding any other law of the United States." Both the Treasury Department and the Department of Health, Education, and Welfare recognize, accordingly, that social security benefits may be subjected to levy under the foregoing sections.

legal process." The statute, therefore, appears to bar the state's attempt to obtain this money.²

The law, however, frequently has declined to give broad and unqualified language and principles their full sweep when to do so would produce unfair or unjust results. Even such words as "none" and "no" do not always mean what they say.³ And in the case of

² Except for the court below in the present case, we know of no state court of last resort that has permitted attachment of social security benefits either paid or payable.

The case most in point, *Century Indemnity Co. v. Mead*, 121 Vt. 434, 159 A. 2d 325, held that Section 207 bars attachment by a judgment creditor not only of future social security payments but also of a bank account in which past social security payments had been deposited. *Ponath v. Hedrick*, 22 Wis. 2d 382, 126 N.W. 2d 28, held that under state law social security benefits are not includable as income in determining an individual's ability to pay for the support of a dependent relative; the court also held, however, that Section 207 did not preclude treating such benefits as income. The Texas Court of Civil Appeals, an intermediate appellate court, relied upon *dicta* in the two federal cases that have considered the Section (*Beers v. Federal Security Administrator*, 172 F. 2d 34 (C.A. 2), and *Ewing v. Gardner*, 185 F. 2d 781 (C.A. 6), reversed on other grounds, 341 U.S. 321, both discussed in footnote 6, *infra*, p. 13) in permitting a creditor to reach accumulated survivors insurance benefits held by a guardian of minor children. *Texas Baptist Children's Home of Round Rock v. Corbitt*, 321 S.W. 2d 610.

³ *E.g.*, *Miller v. Standard Nut Margarine Company of Florida*, 284 U.S. 498 (interpreting the predecessor of section 7421 of the Internal Revenue Code of 1954, 26 U.S.C. 7421(a), which provided flatly that "[n]o suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court," as nevertheless being subject to exception in cases of "extraordinary and exceptional circumstances").

spendthrift trusts, whose very purpose is to protect a beneficiary against his own improvidence by preventing his creditors from reaching rights under the trust, creditors who supply necessities to the beneficiary have been permitted to recover therefor from the trust. See A.L.I. Restatement, *Trusts*, Section 157(b). Thus this Court should not assume that Congress imposed an absolute bar upon the attachment of retroactively paid social security moneys in any circumstance, merely because of the sweeping language of Section 207, if that result does not comport with the proper effectuation of the purposes and policies of the Social Security Act.

The legislative history of Section 207 provides no guidance in the resolution of this problem. The substance of the present language of Section 207 has been in the Social Security Act since it was first enacted in 1935.⁴ The Committee reports on this provision merely paraphrase the language of the statute itself. H. Rep. No. 615, 74th Cong., 1st Sess., 21; S. Rep. No. 628, 74th Cong., 1st Sess., 32. Similarly, when Congress reenacted this provision in the Social Security Amendments of 1939, the Committees stated that the provision "provides that a right to payment under this title shall not be transferable or assignable nor shall any moneys paid or payable be subject to execution or other legal process." H. Rep. No. 728,

⁴ The prohibition against attachment was originally contained in Section 208 of the Social Security Act of 1935, 49 Stat. 620, 625.

76th Cong., 1st Sess., 45; S. Rep. No. 734, 76th Cong., 1st Sess., 53.

Since the provision protected against the attachment of "moneys paid * * * under this title," it automatically covered new social security programs as they were enacted, without the necessity of explicit Congressional action. Thus, when the program of federal disability insurance was established by the Social Security Amendments Act of 1956, P.L. 880, 70 Stat. 807, payments thereunder also came under the protection of Section 207.

A fair reading of this history, we believe, suggests that in Section 207 Congress endeavored to protect social security beneficiaries from having their payments subjected to creditors' claims, but that it did not indicate any views with respect to whether particular exceptional circumstances might justify exceptions to this broad provision. Congress did not intend creditors to be able to satisfy their claims out of social security benefits. The purpose of the federal disability insurance program was to provide benefits to individuals who are seriously disabled and unable to work, and to their dependents, and thereby to alleviate the financial burdens of disability, including "the heavy weight of increased medical and hospital bills, nursing services and drugs, the loss of [the disabled individual's] regular income, and the continued financial responsibility for the support of his wife and the education and care of his children." 102 Cong. Rec. 13037 (1956). The provision in Section 207 that "none of the moneys paid * * * shall be

subject to * * * legal process" guards against frustration of this basic purpose by insuring that moneys designed for these vital purposes are used for those objectives and not diverted to meet the claims of creditors. Accordingly, if exceptions are to be created to the sweeping language of Section 207, they must be consistent with the foregoing purpose.

Assuming that Section 207 may admit of exceptions in special circumstances, the question in this case is whether the circumstances under which the State of New Jersey provided Wilkes with necessary support during the period when he was not receiving federal disability insurance payments entitles the State to reach those payments when retroactively made. Although the question is not free from difficulty, it is our conclusion that Section 207 bars the State from obtaining the money. It is our argument that the equitable considerations upon which the State relies are not sufficiently compelling to justify an exception here; that the fact that the moneys have been deposited in a bank account does not warrant a different result; and that Section 204 of the Act, which permits the Secretary to recover overpayment of benefits and on which the Supreme Court of New Jersey apparently relied, does not support the State's attachment of the federal payments. We discuss each of these points in turn.

A. The Equitable Considerations Upon Which the Supreme Court of New Jersey Relied Do Not Justify Permitting the State to Obtain the Federal Disability Insurance Benefits Paid to Wilkes.

In holding that the respondent Board could reach the federal disability insurance payments made to Wilkes, the Supreme Court of New Jersey pointed out that the Board had provided Wilkes with necessary funds for his support during the period when he was not receiving federal payments; that, as shown by the subsequent retroactive award of the payments, he was entitled to them during that period; that if Wilkes had currently received the federal payments to which he was entitled, the State's payments to him would have been smaller; and that the retroactive federal payment was not necessary for Wilkes' current support.* Although these are appealing considerations, we do not believe that they are sufficient to fit within any justifiable exception to the unqualified language of Section 207, particularly in favor of a State.

Under the New Jersey statute, the State had no choice but to provide financial disability assistance when, upon the filing of Wilkes' application for assistance in 1966, the State determined that he was

*There is nothing in the record that supports the latter statement. The record does not show Wilkes' medical expenses or general financial condition. The retroactive payment may have been necessary to meet his current living expenses, in whole or in part, including special needs arising from his disability.

disabled and had no other income. In these circumstances, it was required to pay him an amount equal to his need. Although the State required Wilkes to execute a reimbursement agreement, its purpose was "to enable the Board to obtain reimbursement . . . out of subsequently discovered or acquired real and personal property of the recipient" (Pet. App. A, 6).

The Board, therefore, was not volunteering any funds or services as an act of mercy or aid to help Wilkes, but was performing its statutory responsibilities to aid all disabled indigents without regard to future recoupment. Thus, no unfairness would result if the State were not permitted to reach Wilkes' benefits. The result of denying the State that right is to place it in the same position with respect to Wilkes as it occupies with respect to what probably are the great majority of the recipients of State disability aid, from whom the State is unable to obtain reimbursement. The fact that Wilkes executed a formal reimbursement agreement should not make any difference; despite that agreement, we think that the State should be in no better position than an ordinary creditor, and Section 207 precludes creditors generally from obtaining social security payments.

Indeed, any hardship the State might be thought to suffer from this result is substantially diminished by the fact that a portion of any recovery it might obtain would inure to the benefit of the federal government. As the Supreme Court of New Jersey recognized, since the federal government provides one-half

of the funds for assistance under the New Jersey program of disability relief, "the state, upon recovery of any amount by way of reimbursement, must account to the federal government for the latter's share in the same proportion as it was contributed" (Pet. App. A, 10).

B. Section 207 Covers Federal Benefits That Have Been Deposited in a Bank Account After Payment.

The fact that the moneys paid to Wilkes have been deposited in a bank account does not remove the moneys from the protection of Section 207. That section bars attachment of a bank account constituting the proceeds of a check made in payment of disability insurance benefits. *Century Indemnity Co. v. Mead*, *supra*. The statute expressly covers "moneys paid" * and it prohibits "execution, levy, [and] attachment," legal processes which, unlike garnishment, relate to assets in hand rather than to rights to future payments. Furthermore, protection of social security benefits deposited in bank accounts is necessary for

*Despite this language, two courts of appeals have expressed, in *dicta*, the belief that the section covers only future payments. *Beers v. Federal Security Administrator*, 172 F. 2d 34 (C.A. 2); *Ewing v. Gardner*, 185 F. 2d 781 (C.A. 6), reversed on other grounds, 341 U.S. 321. Those cases involved efforts by personal representatives of deceased beneficiaries to recover the unpaid benefits which were accrued at the date of death; Section 207 was inapplicable because the property rights in question had passed to the representative by operation of law and were not being made subject to "execution, levy, attachment, garnishment, or other legal process * * *."

full effectuation of the Congressional intent that payments be insulated from creditors and remain available to beneficiaries.

This Court has reached the same conclusion in a series of cases involving veterans' benefits exemption statutes. In *Porter v. Aetna Casualty Co.*, 370 U.S. 159, the Court summarized (at 160-161) its decisions:

Since 1873 it has been the policy of the Congress to exempt veterans' benefits from creditor actions as well as from taxation. In 1933 in *Trotter v. Tennessee*, 290 U.S. 354, the Court * * * held that the exemption spent its force when the benefit funds "lost the quality of moneys" and were converted into "permanent investments." This distinction was adopted by the Congress when the [World War Veterans' Act of 1924] was amended * * * to provide, *inter alia*, that such payments shall be exempt "either before or after receipt by the beneficiary" but that the exemption shall not "extend to any property purchased in part or wholly out of such payments." Thereafter in *Lawrence v. Shaw*, 300 U.S. 245 (1937), the Court held that bank credits derived from veterans' benefits were within the exemption, the test being whether as so deposited the benefits remained subject to demand and use as the needs of the veteran for support and maintenance required. It was noted that the allowance of interest on such deposits would not destroy the exemption. [Footnotes omitted.]

The Court held in *Porter* that 38 U.S.C. 3101, which provides that veterans' "payments * * * shall be exempt from the claim of creditors, and shall not be li-

able to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary," bars attachment by a creditor of benefits deposited in a savings and loan association on behalf of a veteran, on the ground that the deposit retained the "quality of moneys" and did not constitute a "permanent investment."

The same principle is also appropriate here: the protection extended by Section 207 to "moneys paid" should remain in force as long as the payment retains the "quality of moneys" and is not converted into a "permanent investment." Under this standard, this case is governed by *Lawrence v. Shaw*, 300 U.S. 245, which held that the immunity afforded veterans' benefits continued after their deposit in a bank account. Here, as in both *Lawrence* and *Porter*, the funds on deposit were readily withdrawable and retained the quality of money; there is no evidence that these funds, by their mere deposit, had been transformed into a permanent investment.'

In reaching a contrary result, the court below cited a separate line of veterans' benefit cases, dealing with the issue whether a State which has provided care and maintenance of an incompetent veteran is a "creditor" for purposes of 38 U.S.C. 3101. These decisions generally stand for the propositions that in-

'The court in *Lawrence* noted (at 250) that "deposits in bank may be made under a special agreement by which the deposits assume the character of investments and would lose immunity accordingly [but no] such agreement is shown here." There has been no showing of any such special agreement in this case either.

sofar as a State's claim relates to amounts expended before the appointment of a committee of an incompetent veteran, the State is a "creditor" and therefore may not recover from benefits subsequently paid to the committee, but that the State is not a "creditor" as to subsistence charges paid after appointment of the committee and may therefore recover such amounts from the committee. See, *e. g.*, *Savoid v. District of Columbia*, 288 F.2d 851 (C.A. D.C.); *District of Columbia v. Reilly*, 249 F.2d 524 (C.A. D.C.); *Department of Public Welfare v. Sevcik*, 18 Ill. 2d 449, 164 N.E. 2d 10; *In re Bemowski's Guardianship*, 3 Wis. 2d. 133, 88 N.W. 2d 22; *In re Lewis' Estate*, 287 Mich. 179, 283 N.W. 21; *In re Ferarazza's Estate*, 219 Cal. 668, 28 P. 2d 670.

Those decisions seem irrelevant to the issue in this case. Unlike 38 U.S.C. 3101, the statutory provision involved here (Section 207) does not refer to "claim of creditors" but rather interposes a broad bar against the use of any legal process to reach social security benefits. The construction of "creditor" relied upon in the veterans' benefit cases, itself somewhat strained, therefore would not justify an exception to Section 207.*

* As petitioners suggest (Pet. 6, n. 2), the veterans' benefits cases involve the use of current funds for the current support of an incompetent; those funds would have been used by the veteran himself or his committee for his care and maintenance if it had not been provided by the State. Those cases are thus factually distinguishable from the case here, where the State is not seeking to recover for any assistance it is currently providing and the beneficiary's trustee seeks to retain the funds for the use of the beneficiary.

C. Section 204 of the Act, Which Permits the Secretary to Recover Overpayments of Benefits, Does Not Support the State's Attachment of the Federal Payments in This Case.

The court below apparently relied in part upon Section 204 of the Act, 42 U.S.C. 404, which permits the Secretary to recover overpayments of old-age, survivors, or disability insurance benefits. This reliance is not warranted. There has been no overpayment of federal disability insurance benefits here; and the Secretary is not seeking recovery, directly or indirectly, of any such benefits. The pecuniary interest of the United States in the outcome of this case, resulting from the State's duty to remit to the United States its aliquot share of any recovery from beneficiaries (see pp. 12-13, *supra*), is not within the ambit of Section 204. That Section is limited to federal payments to beneficiaries and does not apply to federal contributions to state assistance programs.

CONCLUSION

For the foregoing reasons, the judgment of the Supreme Court of New Jersey should be reversed.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

DANIEL M. FRIEDMAN,
Deputy Solicitor General.

KEITH A. JONES,
Assistant to the Solicitor General.

WILMOT R. HASTINGS,
General Counsel,

EDWIN YOURMAN,
Assistant General Counsel,

ARTHUR ABRAHAM,
*Deputy Assistant General Counsel,
Department of Health, Education and Welfare.*

AUGUST 1972.

IN THE
Supreme Court of the United States

OCTOBER TERM, 1972

AUG 15 1972

No. 71-5656

DORIS PHILPOTT and WILLIAM WILKES,
Petitioners,

v.

ESSEX COUNTY WELFARE BOARD,
Respondent.

**ON WRIT OF CERTIORARI TO THE
SUPREME COURT OF NEW JERSEY**

BRIEF FOR PETITIONERS

ROBERT CURTIS
Newark Legal Services Project
449 Central Avenue
Newark, New Jersey 07107

✓ **GEORGE CHARLES BRUNO**
New Hampshire Legal Assistance
88 Hanover Street
Manchester, New Hampshire 03101
Counsel for Petitioners

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DORIS PHILPOTT and WILLIAM WILKES,

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ESSEX COUNTY WELFARE BOARD,

Respondent.

ON WRIT OF CERTIORARI TO THE
SUPREME COURT OF NEW JERSEY

BRIEF FOR PETITIONERS

MEMORANDUM

Petitioners Doris Philpott and William Wilkes respectfully pray for relief against the judgment and opinion of the Supreme Court of New Jersey entered on July 12, 1971, reversing the judgment of the New Jersey Appellate Division and allowing attachment of petitioner Wilkes' Social Security benefits.

OPINION BELOW

The decision of the trial court is reported at 104 N.J. Super. 280, 249 A.2d 639 (County Ct. 1969), (Pet. App. A, 17). The decision of the Appellate Division affirming the trial court is reported at 109 N.J. Super. 48, 262 A.2d 227 (1970), (Pet. App. A, 26). The decision of the New Jersey Supreme Court, reversing the Appellate Division, was rendered on July 12, 1971, and is reported at 59 N.J. 75, 279 A.2d 806 (1971), (Pet. App. A, 41).

JURISDICTION

The judgment of the Supreme Court of New Jersey was entered on July 12, 1971. Mr. Justice Brennan granted a timely application to extend the time within which to petition for a writ of certiorari to November 8, 1971, and Wilkes' petition was filed prior to that date. A writ of certiorari was granted by this court on May 15, 1972. On June 26, 1972, this court granted an extension of 15 days for petitioner to file this brief.

This Court's jurisdiction is invoked under 28 U.S.C. § 1257(3).

QUESTION PRESENTED

Whether a state statute, allowing a county welfare board to exact repayment of properly received past welfare benefits, may override the immunity from attachment, execution, and levy of Social Security benefits paid or payable, provided for under 42 U.S.C. § 407, in violation of the Supremacy Clause of the United States Constitution.

STATUTES INVOLVED

42 U.S.C. §407:

"The right of any person to any future payment under this subchapter shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this subchapter shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any, bankruptcy or insolvency law."

N.J.S.A. 44:1-95:

"If it is ascertained at any time that a person who has been assisted by, or has received support from a municipality or county has real or personal property over and above that necessary for his maintenance in whole or in part, if such poor person is maintained by the municipality and above that sufficient for his family, or if any such person shall die, leaving real or personal property, an action may be maintained in the county court of the county by the director of welfare of the municipality who has furnished or provided such assistance or support, or any part thereof, against such person or his estate, to recover the sums of money which have been expended by the municipality or county in the assistance and support of the person during the period for which support was furnished. . . ."

STATEMENT OF THE CASE

On August 2, 1966, petitioner Wilkes applied for public assistance benefits under the New Jersey state program for permanent and total assistance. This program is administered by the respondent, the Essex County Welfare Board. Petitioner qualified for benefits and began receiving monthly benefits under the state program. In New Jersey, however, "moneys paid by county welfare

boards are loans or advances and are not outright gifts to the poor. The Legislature determined as a matter of policy that such welfare payments may only be made upon condition that the recipient execute a reimbursement agreement." 249 A.2d, at 641. Thus in accordance with New Jersey law, petitioner executed an "Agreement to Reimburse," (Pet. App. A, 4) which under New Jersey law has the force of a judgment for the amount of welfare benefits received. 262 A.2d, at 228.

At the time that the petitioner applied for state welfare benefits, the Essex County Welfare Board referred him to the Social Security Administration for the purpose of filing for possible benefits under the Federal Disability Benefits law. For reasons that do not appear in the record, petitioner was not declared eligible for benefits under the federal law and received no federal benefits for two years. In August, 1968, petitioner received a check for \$1,864.20 from the Social Security administration constitution a retroactive award for disability payments. The Essex County Welfare Board attached the entire check the same day that petitioner received it, seeking to collect under petitioner's Agreement to Reimburse the amount of the welfare benefits it had paid out (Pet. App. A, 7). Despite the fact that there was some question whether the Essex County Board's claim involved the full amount of the Social Security benefits, the Board attached the whole check, and brought this suit for an order directing the bank in which the money had been deposited to pay the money to the Board. Shortly thereafter, respondent reduced and then terminated the petitioner from welfare assistance.

The petitioner raised the explicit language of 42 U.S.C. §407 as a bar to respondent's suit.¹ The trial court held that section 407 did bar the instant suit and entered judgment in favor of petitioner on the basis of a lengthy and well-reasoned opinion, which concluded:

If a relative or neighborhood grocer or a charitable institution who advanced funds or credit for the maintenance and support of an individual would be barred from recovery out of the federal funds, why should a welfare board be in any better position? The mere coincidence that the claimant is a public body cannot dictate a contrary result. In the absence of any exception in the statute demonstrating such an intent, the will of Congress must be enforced." 249 A.2d, at 643.

The Appellate Division affirmed the trial court's holding that federal law barred the present suit:

[W]e conclude that the immunity from attachment, execution and levy of Social Security benefits paid or payable, provided for under 42 U.S.C. §407, immunized from seizure by the Essex County Welfare Board the lump sum benefits received by Wilkes from the Social Security Administration. The reimbursement agreement signed by Wilkes has the force of a judgment, N.J.S.A. 44:7-14; but enforcement of that judgment by the Welfare Board is subject to the same limitations expressed in the paramount Federal law, 42 U.S.C. §407, as in the case of any other general judgment." 262 A.2d, at 228.

¹As this Court has recognized, section 407, if applicable, exempts Social Security benefits from creditors even though their form has been converted from a check payable to the recipient to a bank account belonging to him. *Lawrence v. Shaw*, 300 U.S. 245 (1937); *Porter v. Aetna Casualty & Surety Co.*, 370 U.S. 159 (1962).